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4 Attorney for Defendant

5 **CLAUDIO BETANCOURT**

6  
7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
9 **SAN JOSE JUDICIAL DISTRICT**

10 **UNITED STATES OF AMERICA,** )

11 Plaintiff, )

12 v. )

13 **CLAUDIO BETANCOURT,** )

14 Defendant. )

**CR. 12-00233-DLJ**

**STIPULATION AND [] ORDER  
TO CONTINUE TRIAL AND TO  
EXCLUDE TIME UNDER SPEEDY TRIAL  
ACT[18 U.S.C. § 3161(h)]**

15 This stipulation is offered on behalf of Defendant Claudio Betancourt through defense  
16 counsel Steve Emery Teich and not opposed to by the United States government through Assistant  
17 United States Attorney Daniel Kaleba, as follows:

18 This matter is set for pretrial on February 28, 2013 and for trial on March 18, 2013.  
19 Defense counsel is set for homicide trial on March 3, 2013 in Santa Clara Superior Court, *People*  
20 *v Domingo Aviles*, case number C 9162660. That matter was originally set for trial on January 14,  
21 2013 but was continued due to the unavailability of the assistant district attorney assigned to the  
22 case. Defendant does not wish to waive time and will pull his time waiver on January 30, 2013 to  
23 make sure the case is not continued beyond the sixty day period. This time period will expire at  
24 the end of March 2013.

25 I have spoken with the Santa Clara Superior Court calendaring clerk and he told me that  
26 expects the court will maintain the March 4<sup>th</sup> 2013 trial date but if not, the case will not be  
27 continued long after that. It thus appears that the homicide case will go out at the same time as our  
28 scheduled trial. The homicide is expected to last approximately three weeks. The client in the

1 homicide is in custody and wishes the case go out to trial as quickly as possible.

2 The instant case should only take three or four days to try. This stipulation is being offered  
3 by and on behalf of the defense and is not being opposed to by the United States. Mr. Betancourt  
4 is out of custody and wishes to accommodate counsel so instant counsel can try this matter.

5 I have checked with the Assistant United States Attorney and the Courtroom Clerk, Ms.  
6 Garcia who both indicated that the requested date of May 6<sup>th</sup> 2013 is available for trial. I would  
7 therefore request that the trial date be reset for May 6, 2013 at 9:00 a.m. and I would further  
8 request that the pretrial now set for February 28, 2013 be reset for Thursday April 25, 2013 at  
9 10:00 a.m. Defense counsel requests a continuance of the case for good cause to provide defendant  
10 continuity of counsel.

11 Based on these facts, the parties stipulate and agree that the ends of justice to be served by  
12 granting the requested continuance outweigh the best interests of the public and the defendant in  
13 a speedy trial. The parties, through their respective counsel, hereby stipulate and request that the  
14 trial scheduled in this case for March 18, 2013 at 9:00 a.m before Judge Jensen should be vacated  
15 and reset for May 6, 2013 at 9:00 a.m. and the pretrial now set for February 28, 2013 be reset for  
16 Thursday April 25, 2013 at 10:00 a.m.

17 In addition, the parties stipulate that the time period from January 29, 2013 until May 6,  
18 2013, should be excluded under the Speedy Trial Act, 18 U.S.C. §3161(h)(7)(A) and (B)(iv), that  
19 the failure to grant a continuance would unreasonably deny the defendant continuity of counsel.

20  
21 Respectfully submitted,

22 DATED: January 29, 2013

23 By: /s/ Steve E. Teich  
24 STEVE E. TEICH  
25 Attorney for Defendant  
26 CLAUDIO BETANCOURT

27 DATED: January 29, 2013

28 By: /s/ Daniel Kaleba  
DANIEL KALEBA  
Assistant U.S. Attorney  
For the United States of America

1  
2 **IN THE UNITED STATES DISTRICT COURT**  
3 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
4 **SAN JOSE JUDICIAL DISTRICT**

5 **UNITED STATES OF AMERICA,** )

CR. No. CR. 12-00233-DLJ

6 Plaintiff, )

7 v. )

8 **|| ORDER TO CONTINUE**  
9 **TRIAL AND PRETRIAL AND TO EXCLUDE**  
10 **TIME UNDER SPEEDY TRIAL ACT**  
11 **[18 U.S.C. § 3161(h)]**

12 **CLAUDIO BETANCOURT,** )

13 Defendant. )  
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Based on the reasons set forth in the stipulation of the parties filed on January 29, 2013, and good cause appearing therefrom, the Court adopts the stipulation of the parties in its entirety.

**IT IS HEREBY ORDERED** that the trial scheduled for **March 18, 2013** before Judge Jensen is vacated and that the trial before Judge Jensen is set for **May 6, 2013**, at **9:00 a.m.** The pretrial now set for **February 28, 2013** is reset for Thursday **April 25, 2013** at 10:00 a.m.

The Court further finds that the ends of justice that will be served by granting a continuance outweigh the best interests of the public and the defendant in a speedy trial. Accordingly, **IT IS HEREBY ORDERED** that, for the reasons stated in the parties' January 29, 2013 stipulation, the time within which the trial of this matter must be commenced under the Speedy Trial Act is EXCLUDED during the time period from January 29, 2013, through May 6, 2013, pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B)(iv), due to the need to provide defendant with continuity of counsel.

**IT IS SO ORDERED.**

DATED: CEH

By: 

**HONORABLE FONQY GNN JENSEN**  
United States District Judge  
Northern District of California